IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE JURISDICTION

CRIMINAL REVISION APPLICATION NO.390 OF 2004

Hasan Bapusaheb Mulani ..Applicant

V/s.

Jasmin Hasan Mulani & Anr. ..Respondents

Mr.I.M.Khairdi for the applicant.

Coram : S.B.Mhase &
R.S.Mohite,JJ

Date : 12.10.2004.

PC

. Heard learned Advocate for the applicant.

1. The learned Advocate for the applicant submits that the applicant has given a talaq and petition therefore, cannot be entertained. However, in view of recent Judgment, this submission is not sustainable. The second ground is that the wife is living in adultory with her brother-in-law. However, there is no evidence to accept the oral evidence of the petitioner. It appears that a single act which he claims to have seen is condoned by him. More specifically there is no evidence which will lead to conclude that the wife is living in adultory. The last ground which was tried to be

submitted by the learned Advocate for the applicant is that the quantum fixed is exhorbitant. He submits that the petitioner is unemployed graduate and his income is not Rs.7000/- to Rs.8000/- as concluded by the trial Judge. We have noticed that initially the wife has brought a certificate of the the Sarpanch of the village Modnimb where the petitioner resides to demonstrate that the petitioner is having a Digital photo studio and Typewriting institute. However, from the same Sarpanch, this petitioner husband has obtained a certificate stating that he is not owning photo studio and typewriting institute. The learned Advocate for the petitioner submitted that the respondent/wife should have examined that Sarpanch in order to establish that certificate. However, negative production of the certificate from the same Sarpanch shows that the petitioner being from the said village had tampered and win over the said witness. Apart from this, there is an evidence that the agricultural lands are owned by petitioner husband and they are standing in the name of the father of the petitioner and there is a house property which was owned by the family. We find that the trial Judge has rightly taken into consideration all factors, present minimum cost of living and had granted the maintenance of Rs.2000/- PM to wife and Rs.1000/-PM to the child.

2. In the circumstances, we do not find any substance in the present revision application and we summarily reject it.

(R.S.Mohite,J) **(S.B.Mhase,J)**